

REMARKS

The Official Action dated September 16, 2004 has been carefully considered. Accordingly, the amendments presented herewith, taken with the following remarks, are believed sufficient to place the present application in condition for allowance. Reconsideration is respectfully requested.

By the present amendment, claims 1-19 are amended to correct typographical errors. Claims 1 and 13 are also amended to recite that "said first and/or second composition comprises a surfactant", in accordance with the teachings of the specification at page 16, lines 23-28. Claim 10 has been amended to change its dependency from claim 1 to claim 13. Claim 20 is added. Support for claim 20 may be found in claims 1 and 10. It is believed that these amendments do not involve any introduction of new matter, whereby entry is believed to be in order and is respectfully requested.

Claims 1-19 were rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention. Specifically, the Examiner asserted that there is no basis in the specification for applying a surfactant separately from applying said first and said second compositions, as recited in claims 1 and 13. Applicants traverse the Examiner's rejection. However, to expedite prosecution of the application, claims 1 and 13 have been amended to recite that "said first and/or second composition comprises a surfactant", in accordance with the teachings of the specification at page 16, lines 23-28. It is believed that with this amendment, the rejection of claims 1-19 under 35 U.S.C. §112, first paragraph, has been overcome. Reconsideration is respectfully requested.

Claims 1-19 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicants regard as the invention. Specifically, the Examiner asserted that the term "composition" in claims 1 and 13 is indefinite because its metes and bounds cannot be defined. This rejection is traversed and reconsideration is respectfully requested.

The present invention is directed to processes of treating a fabric using two separate compositions whereby heat is generated on the carpet upon contact of said two compositions (page 1, lines 21-24). The two compositions, which generate heat upon contact, are fully defined by the specification. The specification at page 6, lines 23-25 recites that any compositions capable of generating heat upon contact with each other known to those skilled in the art can be used in the process according to the present invention. Such compositions that generate heat upon contact may be selected from exothermic reaction systems such as, dissolution of organic or inorganic salt, oxidations or reductions, hydration of substantially anhydrous compounds, acid base reactions, and mixtures thereof (page 10, lines 21-27). The specification further recites at pages 10-12 various compositions that may be used in the presently claimed processes.

The test for definiteness is whether one skilled in the art would understand the bounds of the claim when read in light of the specification, *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576 (Fed. Cir. 1986). If the claims, read in light of the specification, reasonably apprise those skilled in the art of the scope of the invention, Section 112 demands no more, *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1385 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 947 (1987). As the specification clearly defines the term "composition" as being any composition capable of generating heat upon contact with another composition, Applicants submit that claims 1-19 are fully defined by the specification. It is therefore submitted that claims 1-19 are definite and that the rejection under 35 U.S.C. §112, second paragraph, has been overcome. Reconsideration is respectfully requested.

Claims 1-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wei et al, U.S. Patent No. 6,245,729, in view of Tyerech, U.S. Patent No. 5,728,669. The Examiner asserted that Wei et al disclose a composition for forming and releasing an aqueous peracid solution, wherein a chemical heater provides for the generation of heat. The Examiner asserted that Wei et al do not disclose the use of a surfactant in its compositions, however, the Examiner relied upon Tyerech as disclosing compositions comprising hydrogen peroxide and anionic surfactants for applying to carpets. Accordingly, the Examiner asserted that it would have been obvious to one skilled in the art to combine at least one anionic surfactant with the carpet sanitizer composition of Wei et al because Tyerech teaches that surfactants can be used along with sanitizer components as a treatment for cleaning and sanitizing carpets.

However, as will be set forth in detail below, Applicants submit that the processes defined by claims 1-19 are nonobvious over and patentably distinguishable from Wei et al in view of Tyerech. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Particularly, claim 1 recites a process of treating a fabric comprising the steps of applying, in any order, to said fabric a first composition and a second composition. Said first and/or second composition comprises a surfactant. Upon contact of said first and second compositions heat is generated.

Claim 13 is directed to a process for cleaning a carpet comprising contacting a carpet with a first composition and a second composition. Said first and/or second composition comprises a surfactant. Upon contact of said first and second compositions with each other, heat is generated to provide a carpet cleaning benefit.

Wei et al is directed to peracid forming systems, peracid forming compositions and methods for making and using. Wei et al disclose that the peracid forming composition includes a peracid precursor, a peroxygen source and a chemical heater. Wei et al also

disclose that the peracid forming composition is provided within a container and when the container is contacted with water, the water combines with the peracid forming composition to create a peracid solution and combines with the chemical heater to release heat. As noted by the Examiner, Wei et al fails to teach, suggest or recognize a heat-generating composition which comprises a surfactant, as required by the claims. Accordingly, Applicants submit that Wei et al fail to teach, suggest or recognize the processes as defined by claims 1-19.

The Examiner relied upon Tyerech as disclosing carpet sanitizers that comprise surfactants. However, the combination of the Tyerech reference with the peracid forming compositions and systems of Wei et al would destroy the fundamental teachings of Wei et al. Specifically, Tyerech is directed to aqueous cleaning and surface treatment compositions for imparting oil repellency to treated surfaces, especially carpets and carpet fibers. The compositions of Tyerech comprise urethane perfluoroalkyl ester constituent, an oxidizing agent constituent, an anionic surface active agent, one or more organic solvents and water. In contrast, Wei et al disclose non-aqueous peracid forming compositions that use water to not only create an aqueous peracid solution but also to generate heat. Accordingly, Applicants submit that there is no intrinsic basis in the prior art or some extrinsic factor that would prompt one of ordinary skill in the art to combine the teachings of Tyerech with Wei et al as suggested by the Examiner, especially since Tyerech is directed to aqueous compositions and Wei et al is directed to peracid forming systems which use water to create peracid solutions and generate heat.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching, suggestion or incentive supporting the combination, *In re Geiger*, 2 U.S.P.Q. 2d 1276 (Fed. Cir. 1987). The Examiner must give some reason as to why one of ordinary skill in the art would have been prompted to combine the teachings of the cited references to arrive at the claimed invention since it is the burden of

the Examiner to establish a *prima facie* case of obviousness. The Examiner cannot pick and choose among the individual elements of assorted prior art references to recreate the claimed invention; the Examiner has the burden to show some teaching or suggestion in the references to support their use in the particular claimed combination, *Smith-Kline Diagnostics, Inc. v. Helena Laboratories Corp.*, 8 U.S.P.Q. 2d 1468, 1475 (Fed. Cir. 1988). Finally, both a suggestion to combine the references and a reasonable expectation of success must be found in the art itself for a proper *prima facie* case of obviousness, *In re Dow Chemical Co.*, 5 U.S.P.Q. 2d 1529 (Fed. Cir. 1988). Therefore, because the Tyerech disclosures would destroy the teaching of Wei et al, Applicants submit there is no teaching, suggestion or reference in Wei et al or Tyerech for modifying the disclosures therein along the lines asserted by the Examiner to arrive at the presently claimed processes.

Finally, Applicants note that the present invention is directed to processes for treating/cleaning a fabric/carpet whereby heat is generated on the fabric/carpet upon contact of the two compositions. The first and/or second composition comprises a surfactant prior to contact with the fabric/carpet. The combination of the Tyerech aqueous cleaning composition comprising a surfactant with the Wei et al formed aqueous peracid solution does not teach the presently claimed processes because once the aqueous peracid solution of Wei et al is formed with water, heat is also generated. In contrast, the presently claimed process requires that a first and/or second composition comprises a surfactant prior to combination with the other composition and thus, prior to the generation of heat.

References relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). As noted above, Applicants find no teaching, suggestion or reference in Wei et al in view of Tyerech of the process for treating a fabric (claim 1) or cleaning a carpet (claim 13) comprising the steps of applying, in any order,

to said fabric a first composition and a second composition, wherein said first and/or second composition comprises a surfactant, and wherein upon contact of said first and second compositions heat is generated. In addition, Applicants find no teaching, suggestion or reference in Wei et al in view of Tyerech for modifying the disclosures therein to arrive at the claimed invention. In view of the failure of Wei et al in view of Tyerech to teach, suggest or recognize the process for treating a fabric (claim 1) or cleaning a carpet (claim 13) as recited by the claims, the references do not support a rejection of claims 1-19 under 35 U.S.C. §103.

It is therefore submitted that the presently claimed processes as defined by claims 1-19 are nonobvious over and patentably distinguishable from the teachings of Wei et al in view of Tyerech, whereby the rejection under 35 U.S.C. §103 has been overcome. Reconsideration is respectfully requested.

Claims 1-5, 7 and 9-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Soldanski et al, U.S. Patent No. 4,834,900. The Examiner asserted that Soldanski et al disclose a process for the removal of stains from fabrics comprising treating the stained areas of the fabrics with an aqueous liquid paste form or foaming stain remover and subjecting the entire product to cleaning with a powder-form cleaning composition before the treated areas have dried. The Examiner also asserted that Soldanski et al disclose aqueous formulations suitable for the first cleaning composition that comprise surfactants and powder-form compositions comprising zeolite, which is usable as a second composition. The Examiner further asserted that Soldanski et al do not provide working examples of the process using the powder composition comprising the zeolite as claimed, however, the Examiner asserted that zeolite is taught by Soldanski et al as being equivalent to cellulose powder and therefore, it would have been obvious to a skilled artisan to substitute zeolite for cellulose in the exemplified process or to add zeolite to the cellulose containing powder.

However, as will be set forth in detail below, Applicants submit that the processes defined by claims 1-5, 7 and 9-19 are nonobvious over and patentably distinguishable from Soldanski et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

The process of treating a fabric of claim 1 and the process for cleaning of claim 13 are discussed above. Soldanski et al disclose processes for removing stains from fabrics. Soldanski et al disclose that the preferred stain remover is an aqueous composition containing a surfactant and the preferred powder-form cleaning composition contains a finely divided cellulose powder as an adsorbent. However, Soldanski et al fail to teach, suggest or recognize a process for treating/cleaning a fabric/carpet by using two separate compositions whereby heat is generated on the fabric/carpet upon contact of said compositions. In fact, Soldanski et al does not teach, suggest or recognize the use of any exothermic reaction to clean carpets, as required by the present claims.

To establish prima facie obviousness of the claimed invention, all of the claim limitations must be taught or suggested by the prior art, *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne, supra*. A disclosure is enabling if one reasonably skilled in the art could make or use the invention from the disclosure coupled with information known in the art without undue experimentation, *United States v. Teletronics, Inc.*, 875 F.2d 778, 785 (Fed. Cir. 1988), *cert. denied* at 490 U.S. 1046, 1989. Soldanski et al fail to provide an enabling disclosure of the present invention. Specifically, Soldanski et al fail to teach, suggest or recognize processes for treating/cleaning a fabric/carpet by using two separate compositions whereby heat is generated on the fabric/carpet upon contact of said compositions. Accordingly, in view of the failure of Soldanski et al to teach, suggest or

recognize the process for treating a fabric (claim 1) and cleaning a carpet (claim 13) as recited by the claims, the reference does not support a rejection of claims 1-5, 7 and 9-19 under 35 U.S.C. §103.

It is therefore submitted that the presently claimed processes as defined by claims 1-5, 7 and 9-19 are nonobvious over and patentably distinguishable from Soldanski et al, whereby the rejection under 35 U.S.C. §103 has been overcome. Reconsideration is respectfully requested.

Claims 1-5, 7 and 9-19 were rejected under 35 U.S.C. §102(b) as being anticipated by Paszek et al, U.S. Patent No. 5,286,400. The Examiner asserted that the composition disclosed in Example 1 of Paszek et al anticipates the present claims. Specifically, the Examiner asserted that Cycloryl is an aqueous rug shampoo comprising sodium lauryl sulfate and sodium sulfosuccinate (two anionic surfactants) which is combined with a solid zeolite and applied to carpet. The Examiner asserted that the combination of the carpet shampoo with the zeolite in Example 1 is the heat generating process as claimed.

However, as will be set forth in detail below, Applicant submits that the processes defined by claims 1-5, 7 and 9-19 are not anticipated by Paszek et al. According to this rejection is traversed and reconsideration is respectfully requested.

Particularly, the processes of claims 1 and 13 are discussed above.

Paszek et al disclose flowable powder carpet cleaning formulations. The formulation of Example 1 in Paszek et al contains powdered cellulose, borax hydrated amorphous silica, anionic surfactants, an organic solvent, water and a zeolite. The composition disclosed in Example 1 does not anticipate the present process of treating/cleaning a fabric/carpet. Specifically, the process for treating/cleaning a fabric/carpet, as required by the claims, is accomplished by using two separate compositions, whereby heat is generated on the fabric/carpet upon contact of said compositions. Paszek et al do not disclose the use of two

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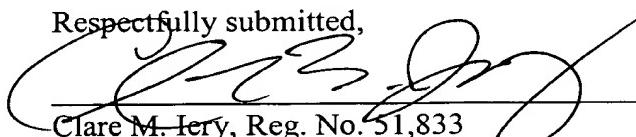
compositions whereby heat is generated on the carpet upon contact of the compositions. Paszek et al merely disclose a first composition, zeolite, comprising a surfactant, Cycloryl. Furthermore, Paszek et al fail to disclose or recognize the use of any exothermic reaction to clean a carpet, which is required by the present claims.

Anticipation under 35 U.S.C. §102 requires disclosure in a single prior art reference of each element of the claims under consideration, *Alco Standard Corp. v. TVA*, 808 F.2d 1490, 1 U.S.PQ.2d 1337, 1341 (Fed. Cir. 1986). In view of the failure to Paszek et al to disclose a process of treating a fabric (claim 1) or cleaning a carpet (claim 13) comprising the steps of applying, in any order, to said fabric/carpet a first composition and a second composition wherein upon contact of said first and second composition heat is generated, as required by claims 1-5, 7 and 9-19, Paszek et al do not disclose each element of the present claims. Therefore, Paszek et al do not anticipate claims 1-5, 7 and 9-19 under 35 U.S.C. §102.

It is therefore submitted that the presently claimed processes as defined by claims 1-5, 7 and 9-19 are not anticipated by Paszek et al, whereby the rejection under 35 U.S.C. §102 has been overcome. Reconsideration is respectfully requested.

It is believed that the above represents a complete response to the rejection of the claims under 35 U.S.C. §§102, 103 and 112, first and second paragraphs, and places the present application in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,



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